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May 26, 2020

VIA ECF

Hon. Lewis J. Liman
United States District Judge
United States District Court for the Southern District of New York
500 Pearl Street, Room 701
New York, NY 10007

Re: Status Report and Joint Motion to Renew Stay
Braulio Thorne, individually and on behalf of those similarly situated v.
Bob's Discount Furniture, LLC
SDNY Civil Action No. 19-cv-10100-AT

Dear Judge Liman,

Defendant Bob's Discount Furniture, LLC ("Defendant") respectfully submits this Status Report and Joint Motion to Renew Stay pursuant to Your Honor's March 27, 2020 Order. Dkt. 27. As explained below, the legal theories underling this case are the subject of an appeal pending before the United States Court of Appeals for the Second Circuit. *Dominguez v. Banana Republic, LLC*, No. 20-1559 (2nd Cir.). The interests of judicial economy and efficiency would be served by renewing the stay of this action pending the outcome of that appeal.

As the Court will recall, this is one of more than a hundred materially identical lawsuits filed by Plaintiff's counsel founded on the novel legal theory that the Americans with Disabilities Act ("ADA") and its New York State and City analogues require retailers to offer gift cards printed with braille. The United States District Court for the Southern District of New York recently rejected that premise in the first ruling on the merits of a motion to dismiss in a gift card case. *Dominguez v. Banana Republic, LLC*, No. 19-cv-10171-GHW (S.D.N.Y. Apr. 23, 2020).

In particular, the Court rejected the following arguments: "(1) gift cards are goods that need to be accessible; (2) gifts cards are, like websites, places of public accommodation and therefore must be independently accessible; and (3) Plaintiff was denied access to Banana Republic's services when Banana Republic denied him a Braille (or otherwise accessible) gift

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card.” *Id.* at p. 8. This case is premised on precisely the same theories. *See generally*, Complaint. Dkt. 1

As the Second Circuit appeal will very likely generate binding authority concerning these legal theories, this case should be stayed to preserve scarce judicial resources and ensure uniformity. Counsel for the Plaintiff has consented to the requested stay.

In the alternative, if the Court is not inclined to renew the stay, Defendant respectfully requests that it be permitted 14 days to file a Motion to Dismiss or otherwise defend.

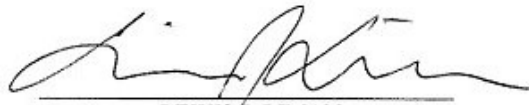
Respectfully submitted,

/s/ Robert M. Shaw

Robert M. Shaw
Counsel for Defendant
Bob’s Discount Furniture, LLC

Application for stay is GRANTED. The case is STAYED until July 27, 2020.

5/26/2020



LEWIS J. LIMAN
United States District Judge